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SURIA ACTIVE RESOURCES SDN BHD v. THE DIRECTOR GENERAL OF ENVIRONMENTAL QUALITY (NO 2)

HIGH COURT MALAYA, KUALA LUMPUR
KAMALUDIN MD SAID J
[JUDICIAL REVIEW NO: WA-25-88-05-2016]
B 27 NOVEMBER 2017

ADMINISTRATIVE LAW: *Judicial review – Application for – Legality of decisions of public authorities – Whether decision of Director General of Environmental Quality ('Director General') to dispose of waste within expected date reasonable and rational – Whether Director General acted pursuant to provisions of Environmental Quality Act 1974*

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ADMINISTRATIVE LAW: *Judicial review – Application for – Legality of decisions of public authorities – Whether decision of Director General of Environmental Quality ('Director General') to dispose of waste within expected date unreasonable and irrational – Expert report to support applicant's allegation – Whether irrelevant – Whether court has duty to examine contents of expert report – Whether court to act as reviewer of decision-making process and not decision itself – Whether decision-makers required to give reasons when exercising discretion – Whether Director General acted pursuant to provisions of Environmental Quality Act 1974*

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TNB Manjung Five Sdn Bhd ('TNB') gave a contract to Daelim Malaysia Sdn Bhd ('Daelim') to construct a power plant in Manjung Perak. During the construction, a fire accident occurred involving batteries resulting in a large amount of waste. Pursuant to this, Daelim gave an award by way of a purchase order to the applicant, a company in the business of waste handling, to dismantle and clean up the waste and to dispose of the resultant waste products. The applicant commenced work and completed the dismantling and cleaning up. The applicant proposed to sell the scheduled waste SW422 to Globecycle Manufacturing Sdn Bhd ('Globecycle') who are duly licensed by the Director General of Environmental Quality ('the respondent') to handle disposal of such waste. The applicant then entered a contract with Globlecycle whereby the said contractor agreed to purchase the waste in issue at about RM750,000 based on the market price. Unfortunately, the respondent issued a letter to Daelim ('first letter') requiring the waste to be disposed of only to Kualiti Alam Sdn Bhd ('Kualiti Alam'). On the other hand, Kualiti Alam refused to pay any price to receive the waste but conversely required a payment of RM0.50 per kg to receive the waste which would incur costs of RM75,000. The applicant observed that this disposal by Kualiti Alam would cause a loss of the value of the waste amounting to about RM750,000 plus the payment to Kualiti Alam for RM75,000 which was totalling at a loss of about RM825,000. Nevertheless, the first letter was subsequently reinforced by another letter ('second letter') which required the job of disposal to commence on or before 18 May 2016. Aggrieved with the

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respondent's decision in the first and second letters, the applicant filed this application for judicial review. At the first substantive hearing, the judge dismissed the application on the grounds that the applicant was not an adversely affected party as required by O. 53 r. 2(4) of the Rules of Court 2012 ('ROC') and accordingly did not have the *locus standi* to take out this application. The applicant appealed to the Court of Appeal that allowed the appeal and remitted the case to the High Court to proceed with the merits of the substantive judicial review and taxation of the damages suffered by the applicant. The issue that arose was whether the direction of the respondent stated in the letters, which was to dispose of the wasted batteries to Kualiti Alam within the expected date, was unreasonable and irrational that no reasonable officer in that place would be acting in good faith in discharging public duties.

Held (dismissing application for judicial review with costs):

(1) Based on the letters exchanged between the parties, Daelim did not dispute that the disposal should be done to Kualiti Alam. They only contested on the date of disposal that was on 9 May 2016 because they would require more time to appeal for an extension of time for the disposal as well as the classification of the scheduled waste. At the same time, TNB Manjung also applied to the respondent for an extension of time for the disposal until 15 June 2016. The respondent had no objection to the extension of time and the temporary storage of the waste, but to ensure the compliance of the notice. The disposal date was extended to 18 May 2016. Based on the above, it was nowhere to be found the basis of the allegation on irrational decision by the respondent who had acted pursuant to the provisions of the Environmental Quality Act 1974. (paras 25 & 26)

(2) The mixture of the burned batteries was classified as schedule code SW 422 which require disposal to the licensed premises who has safe landfill facilities (O. 2 of the Environmental Quality (Prescribed Premises) (Scheduled Wastes Treatment and Disposal Facilities) Order 1989). The disposal of batteries should be done only to Kualiti Alam Sdn Bhd as it was the only licensed company for safe landfill facility in Peninsular Malaysia. Meanwhile, Globecycle is licensed as the facility for off-site recovery. The facilities for safe landfill and off-site recovery were two different facilities. Globecycle was not licensed for safe landfill which made it not appropriate for the disposing company. The damages claimed by the applicant was not relevant as there was no evidence put forward to prove the non-compliance of the provisions of the statutes. The respondent had performed his duties to the required standard. (paras 31-34)

(3) The applicant's sole evidence was the expert report to support its allegation on unreasonable and irrational decision, which was irrelevant at this juncture mainly because the judicial review only allows the court

to act as a reviewer of the decision-making process and not the decision itself. Therefore, the court has no duty to examine the contents of the expert report to see whether the decision was correct and made in pursuance of the opinion of the expert. Further, the applicant did not forward any evidence on the alleged mistake done by the respondent or any breach of any particular provisions of the regulations when arriving at the decisions or that there was a non-compliance of the required procedures. (paras 38 & 39)

(4) In the performance of public duties, the decision-makers like the Ministers are not required to give any reasons when they exercise their discretion under the Act. What more if the statutes do not provide such discretion, all that the decision-maker does is just complying with the required procedures; hence his action should not warrant reasons to be provided. Significantly, the statutes do not provide him the duty to give reasons. If there is no duty to provide, it means there is none being breached under the law as had been held. It was thus not necessary for this court to consider the damages suffered because it was not relevant to this application when the findings were such that there was no mistake by the respondent, that the decisions were rational and in accordance with the law. (paras 40 & 41)

Case(s) referred to:

Chief Constable of North Wales Police v. Evans [1982] 3 All ER 141 ***(refd)***

Ganasan Marimuthu v. Public Services Commission & Anor [1998] 4 CLJ 331 CA ***(refd)***

Government of Malaysia v. Rosalind Oh Lee Pek Inn [1973] 1 LNS 38 HC ***(refd)***

Lembaga Tatatertib Perkhidmatan Awam Hospital Besar Pulau Pinang & Anor v. Utra Badi K Perumal [2001] 2 CLJ 525 FC ***(refd)***

Minister Of Labour & Anor v. Lie Seng Fatt [1990] 1 CLJ 1103; [1990] 1 CLJ (Rep) 195 SC ***(refd)***

Nordin Hj Zakaria (Timbalan Ketua Polis Kelantan) & Anor v. Mohd Noor Abdullah [2004] 2 CLJ 777 FC ***(refd)***

Roshan Lal v. Union of India AIR 1967 SC 1889 ***(refd)***

T Ganeswaran lwn. Suruhanjaya Polis DiRaja Malaysia & Satu Lagi [2005] 3 CLJ 302 CA ***(refd)***

Legislation referred to:

Environmental Quality Act 1974, ss. 31(1)(g), 49

Environmental Quality (Scheduled Wastes) Regulations 2005, regs. 4(1), 7(1), First Schedule

Environmental Quality (Prescribed Premises) (Scheduled Wastes Treatment and Disposal Facilities) Order 1989, O. 2

Rules of Court 2012, O. 53 rr. 2(4), 5

For the applicant - Arun Kasi; M/s Saravanadevi & Assocs

For the respondent - Kogila; FC

Reported by Suhainah Wahiduddin

JUDGMENT

Kamaludin Md Said J:

Introduction

[1] This case is the applicant's second opportunity for judicial review. Previously, leave was granted by YA Datuk Hanipah Farikullah on 27 May 2016. The substantive judicial review was then heard and dismissed with costs of RM3,000 on 3 November 2016 for want of *locus standi*. Stay application was also dismissed. The applicant appealed to the Court of Appeal that allowed the appeal and remitted the case to the High Court to proceed with the merits of the substantive judicial review and taxation of the damages suffered by the applicant. The particulars are as follows.

Background Of The Case

[2] The applicant is a company incorporated in Malaysia under the Companies Act 1965 (Act 125) that is in the business of waste handling. The respondent is the Director General of Environmental Quality acting through the Department of Environmental Quality at Teluk Intan and at Ipoh.

[3] The TNB Manjung Five Sdn Bhd (TNB) gave a contract to Daelim Malaysia Sdn Bhd (Daelim) to construct a power plant in Manjung, Perak. During the construction, a fire accident occurred involving batteries at the fourth floor of the building which resulted in a large amount of waste. Pursuant to this, Daelim gave an award by way of a purchase order dated 24 March 2016 to the applicant to dismantle and clean up the waste and to dispose of the resultant waste products. (See the purchase order in exh. C-1).

[4] The applicant accepted the job as a package under one purchase order to dismantle and clean up the waste and to dispose of the waste. The applicant avers that they undertook the job because it was also given the contract to dispose of the waste as it was a common knowledge in the industry that such waste could be sold for a price as part of being disposed of. (The e-mail correspondence between the parties is in exh. C-2).

[5] The applicant commenced work on or about 25 March 2016 and completed dismantling, cleaning up and bring down the waste weighing about 150,000kgs to a storage place at ground by 3 April 2016 within TNB's land. The next job was to dispose of the waste which is classified as scheduled waste SW422, to which the applicant proposed to sell to Globecycle Manufacturing Sdn Bhd (Globecycle), who are duly licensed by the respondent to handle disposal of such waste. The applicant entered a contract with Globecycle on 1 April 2016 (in exh. C-3), whereby the said contractor agreed to purchase the waste in issue for RM5 per kilogram (kg). The quantity of the waste is about 150,000kgs and it would worth about RM750,000 based on the market price.

[6] Unfortunately, on or about 8 April 2016, the respondent through his Teluk Intan office issued a letter to Daelim (first letter) requiring the waste to be disposed of only to Kualiti Alam Sdn Bhd although there are about 42 other contractors licensed to handle waste of this type (SW422) including Globecycle. (The first letter is in exh. C-4).

[7] Daelim had to follow this requirement despite the dominant and monopoly position conferred on Kualiti Alam Sdn Bhd by the respondent. On the other hand, Kualiti Alam Sdn Bhd has refused to pay any price to receive the waste, but conversely required a payment of RM0.50 per kg to receive the waste which will incur the costs of RM75,000 for 150,000 kgs. The applicant observed that this disposal by Kualiti Alam Sdn Bhd would cause a loss of the value of the waste amounting to about RM750,000 plus the payment to Kualiti Alam Sdn Bhd for RM75,000, which is totalling at a loss of about RM825,000.

[8] Nevertheless, the first letter was subsequently reinforced by another letter (second letter) which required the job of disposal to commence on or before 18 May 2016 (the second letter is in exh. C-6) despite that there are no circumstances posing any particular urgency in disposing of the waste.

[9] Aggrieved with the respondent's decision/action in the first and second letters, the applicant filed this application for judicial review. At the first substantive hearing, YA Datuk Hanipah dismissed the application on the grounds that the applicant was not an adversely affected party as required by O. 53 r. 2(4) of the ROC 2012 and accordingly did not have the *locus standi* to take out this application.

[10] The court also refused the stay application by the applicant's counsel pending disposal of the appeal to the Court of Appeal. This decision resulted in the respondent executing the decision and the batteries disposed of to Kualiti Alam for landfill/incineration and caused damages to the applicant.

Reliefs

[11] In this application, the applicant seeks for the court to allow the judicial review:

(a) against the respondent's decisions in the letter of the Department of Environment, Teluk Intan dated 8 April 2016 addressed to Daelim Malaysia Sdn Bhd with reference no (B) A91/110/602/000 Jld 10 (19) (first letter) and the letter of the Department of Environment, Ipoh dated 5 May 2016 addressed to TNB Manjung Five Sdn Bhd with reference no AS (B) A41/010/100/009 Jld. (36)(1) (second letter);

(b) that the first letter and the second letter be quashed, or in the alternative, reference to Kualiti Alam Sdn Bhd in para. 3.1 of the first letter be directed to be amended to read as "any contractor duly licensed for the purpose by this department";

(c) since the waste already disposed of to Kualiti Alam for landfill or land incineration thereby caused the applicant to suffer losses, an order that the applicant's damages to be assessed pursuant to O. 53 r. 5, taxed and paid to the applicant; and

(d) the costs for this application to be paid to the respondent.

The Principle Of Law

[12] The court is referred to the relevant provisions with regards to this judicial review application, ie, O. 53 of the Rules of Court 2012, the Environmental Quality Act 1974 (Act 127) as well as the Environmental Quality (Scheduled Wastes) Regulations 2005 and the Environmental Quality (Prescribed Premises) (Scheduled Wastes Treatment and Disposal Facilities) Order 1989.

[13] The law on judicial review is trite, that judicial review is not to review the decision but the decision-making process. In such application, the court is not exercising its appellate jurisdiction but supervisory jurisdiction.

[14] In *T Ganeswaran lwn. Suruhanjaya Polis DiRaja Malaysia & Satu Lagi* [2005] 3 CLJ 302, the Court of Appeal had utilised the principle used in *Chief Constable of North Wales Police v. Evans* [1982] 3 All ER 141 which stated that:

> Judicial Review is not an appeal from a decision but a review of the manner in which the decision was made, and therefore the court is entitled on an application for judicial review to consider whether the decision itself was fair and reasonable. Judicial review is concerned, not with the decision, but with the decision-making process. Unless the restriction on the power of the court is observed, the court will in my view, under the guise of preventing the abuse of power, be itself guilty of usurping power.

[15] On the other hand, since the decision-maker respondent is the Government servant, his performance of duties is bound by the relevant statutes of law for the public servant. This is because, the rights and obligations of the public servant and the Government have been prescribed by the law or the administrative regulations made by the Government, as has been stipulated in the *Government of Malaysia v. Rosalind Oh Lee Pek Inn* [1973] 1 LNS 38; [1973] 1 MLJ 222, at p. 224, that the contract between the public servant and the Government is of a very special kind. Upon referring to the Indian Supreme Court in *Roshan Lal v. Union of India* AIR 1967 SC 1889 it was said:

> It is true that the origin of the Government Service is contractual. There is an offer and acceptance in every case. But once appointed to his post or office, the Government Servant acquires a status and his rights and obligations are no longer determined by consent of both parties, but by statute or statutory rules which may be framed and altered unilaterally by the Government ... the hallmark of status is the attachment to a legal relationship of rights and duties imposed by the public law and not by mere agreement of parties.

[16] This would simply mean that, if there are prescribed manners provided under the written law or administrative rules and regulations, the details of the required procedures that need to be followed, they must be complied with, and hence it is not the duty of the court to supplement the same. In the Federal Court case of *Lembaga Tatatertib Perkhidmatan Awam Hospital Besar Pulau Pinang & Anor v. Utra Badi K Perumal* [2001] 2 CLJ 525 whereby the decision of the Court of Appeal was upheld in *Ganasan Marimuthu v. Public Services Commission & Anor* [1998] 4 CLJ 331, it was stated that:

> ... if a statute prescribes the means it must employ them. If it is left without express guidance, it must still act honestly and by honest means ... But that the Judiciary should presume to impose its own methods on administrative or executive officers is a usurpation. And the assumption that the methods of natural justice are *ex necessitate* those of courts of justice is wholly unfounded. This is expressly applicable to steps of procedure ...

Issues To Be Determined

[17] The issue arising in this judicial review application is whether the direction of the respondent stated in the letters, which is to dispose of the wasted batteries to Kualiti Alam within the expected date was unreasonable and irrational that no reasonable officer in that place would do acting in good faith in discharging public duties.

Findings

[18] For the purpose of proving that the decisions were irrational and unreasonable, the applicant deposed two sub-issues to the main issue, ie, whether in the interest of environment and established good practice, the batteries must be disposed of by total destruction as in landfill/incineration as opposed to recycling; and secondly whether the disposal can only be done to Kualiti Alam instead of other licensed recycling companies. The respondent on the other hand goes straightforward to the main issue.

[19] The applicant stands that the recycling method is the most appropriate means of disposal, which is supported by the evidence from the applicant's environmental expert who deposed the affidavit (exh. RA pp. 130-315 expert report) saying that:

> The waste lead-acid batteries currently stored in the temporary waste storage area are technically suitable for recycling but not for disposal in landfilling or incinerating ... This is because incineration or landfill disposal will cause following negative impacts to the environment ... Incineration ... lead ... Sulphur acid ... plastic ...

> The incident that happened in the battery room is a short circuit which was due to sudden surge in voltage. It's technically termed as 'burnt' due to the nature of the short circuit causing isolated sparks of fire at some batteries. The battery room itself was not burnt down ... classified as 'minor' ... no collapse of physical building structure ... the batteries are still

> intact as a whole... they still retain the original share and physical form. The sudden surge in voltage has damaged the normal functioning capacity ... As the batteries cannot be charged and recharged, all the batteries are considered as spent batteries ... the waste batteries ... are considered 'spent' ...
>
> Recycling of waste lead-acid battery will offer the following benefits ... (1) Waste management Hierarchy ... (2) Reduction on the need for mining of virgin materials. ...

[20] The respondent neither provides its rebuttal against this finding by the applicant, nor the reasons on the decisions, hence invited the presumption by the applicant that the respondent has decided unreasonably, irrationally and arbitrarily without considering the relevant matters and by taking into account matters that ought not to be taken into account.

[21] However, the respondent submitted that the presumption by the applicant is wrong because the respondent had discharged his duties pursuant to the provisions of the statutes as he is bound by the same. The expert report is not relevant to this application as this judicial review is neither a process to review the decision of the decision-maker nor an appeal to examine the direction given by the respondent. After all, the expert report was never served on the respondent for the application of special management of scheduled waste as provided for under reg. 7(1) of the Environmental Quality (Scheduled Wastes) Regulations 2005.

[22] The respondent was informed by TNB in their letter dated 6 April 2016 about the fire broke-up at the batteries room TNB Manjung 5, that caused 150 tons of lead-acid batteries to burn down, which waste was classified as SW102 under the First Schedule of the Environmental Quality (Scheduled Wastes) Regulations 2005, therefore TNB sought for the disposal of the waste before 15 June 2016.

[23] Thereafter, Daelim confirmed having received the instruction notice dated 8 April 2016 from Teluk Intan Head of The Environmental Department on these matters:

(a) The Putrajaya Department of Environmental Office has classified the waste as SW422 of the said Schedule;

(b) The disposal of the said scheduled waste should be done in Kualiti Alam Sdn Bhd; and

(c) The final date of disposal was on 9 May 2016.

[24] Daelim then replied by their letter dated 18 April 2016 to the Teluk Intan Head of The Environmental Department on two matters:

(a) The use of the scheduled waste code SW422 (scheduled and non-scheduled waste mixtures); and

(b) The instruction to perform the disposal to Kualiti Alam Sdn Bhd before 9 May 2016.

[25] Based on this letter, Daelim did not dispute that the disposal should be done to Kualiti Alam Sdn Bhd. They only contested on the date of disposal that was on 9 May 2016 because they would require more time to appeal for an extension of time for the disposal as well as the classification of the scheduled waste. At the same time, TNB Manjung also applied to the respondent for an extension of time for the disposal until 15 June 2016. (The letter is in exh. NH-3).

[26] The respondent replied to TNB Manjung, copied to Daelim, that the respondent had no objection for the extension of time and the temporary storage of the waste, but to ensure the compliance of the notice dated 8 April 2016. The disposal date was extended to 18 May 2016. Based on the above, it is nowhere to be found the basis of allegation on irrational decision by the respondent who had acted pursuant to provisions of the Act 127.

[27] The instruction notice was issued pursuant to s. 31(1)(g) of the Act 127 where it says:

> 31. Power to Require Owner or Occupier to Install, Operate, repair, etc.
>
> (1) Where any environmentally hazardous substances, pollutants or wastes are being or are likely to be emitted, discharged or deposited from any vehicle, ship or premises irrespective of whether the vehicle, ship or premises are prescribed under Section 18 or otherwise, or from any aircraft, the Director General may by notice in writing require the owner or occupier of the vehicle, ship or premises, or aircraft, to:
>
> (g) adopt any measure to reduce, mitigate, disperse, remove, eliminate, destroy or dispose of pollution, within such time and in such manner as may be specified in the notice.

[28] Section 49 of the Act 127 further provides that the Director General may by order delegate any of his powers, duties and functions under this Act to any person appointed in the discharge of its duties.

[29] On the second issue that the instruction had chosen Kualiti Alam Sdn Bhd as the disposing company, the respondent draws the attention of this court to the provisions pertaining to the disposal of scheduled waste which should be made only to the prescribed premises.

[30] In the Act 127, the Environmental Quality (Scheduled Wastes) Regulations 2005, reg. 4(1) reads as follows:

> Pelupusan buangan terjadual
>
> 4. (1) Buangan terjadual hendaklah dilupuskan di premis yang ditetapkan sahaja

[31] Upon the examination of the burn-down site, the respondent's officer found out that the mixture of the burned batteries is classified as schedule code SW422 which require disposal to the licensed premises who has safe landfill facility. The safe landfill as has been interpreted in O. 2 of the Environmental Quality (Prescribed Premises) (Scheduled Wastes Treatment and Disposal Facilities) Order 1989, reads as follows:

> Perintah 2. Tafsiran
>
> ... "tapak pelupusan selamat" ertinya premis yang diduduki atau digunakan bagi melupuskan di tanah apa-apa buangan terjadual

[32] As it has been instructed in the notice, the disposal of batteries should be done only to Kualiti Alam Sdn Bhd as it is the only licensed company for safe landfill facility in Peninsular Malaysia. This is stated in the respondent's first affidavit at para. 6.10. Meanwhile, the company appointed by Daelim to dispose of by way of recycling, that is Globecycle Sdn Bhd is licensed as the facility for off-site recovery (pemerolehan kembali luar tapak) which is interpreted as:

> "... kemudahan perolehan kembali luar tapak" ertinya premis yang diduduki atau digunakan bagi memperolehi kembali bahan atau hasil daripada apa-apa buangan terjadual yang tidak dikeluarkan di premis itu

[33] The facilities for safe landfill and off-site recovery are two different facilities. Globecycle Sdn Bhd is not licensed for safe landfill which makes it not appropriate for the disposing company. Different license cannot be used for different purpose.

[34] The damages claimed by the applicant is not relevant as there is no evidence put forward to prove the non-compliance of the provisions of the statutes. The respondent has performed his duties to the required standard.

Conclusion

[35] On the outset, this court decided not to venture discussion into the *locus standi* issue anymore as it has been decided by the Court of Appeal that the applicant has the *locus* to commence this judicial review being an interested person under O. 53 r. 2(4).

[36] As has been canvassed earlier that the judicial review is not a process of examining the decision but the review of the decision-making process, in arriving at this conclusion, the court is therefore guided by the decision in the *Minister of Labor v. Lie Seng Fatt* [1990] 1 CLJ 1103; [1990] 1 CLJ (Rep) 195; [1990] 2 MLJ 9, whereby it was stated:

> The general guideline on the functions of the court before interfering in the exercise of an executive discretion can be found in the judgment of Lord Greene MR in the celebrated case of *Associated Provincial Picture Houses Ltd v. Wednesbury Corp* [1948] 1KB 223. The courts can only interfere with an act of executive authority if it be shown that the authority has

> contravened the law. Secondly, the court is not a court of appeal in such matters. Thirdly, the exercise of such discretion is governed by certain principles and so long as the exercise is within the four corners of these principles, the discretion is absolute and cannot be questioned in a court of law.... The power of the court to interfere in each case is not as an appellate authority to override a decision of the local authority, but as a judicial authority which is concerned, and concerned only to see whether the local authority have contravened the law by acting in excess of the powers which Parliament has confided in them.

[37] On the scrutiny of the above case, the court considers firstly, whether the authority has contravened the law, if it does, the court is reminded that it is not an appellate forum for this matter; and secondly, whether the impugned decision involved the discretion of the decision-maker, and if it does, whether he had done in within the guiding principles. If it does, then the court has no jurisdiction to interfere.

[38] The applicant's sole evidence is the expert report to support its allegation on an unreasonable and irrational decision. The court views that this expert report is irrelevant at this juncture mainly because the judicial review only allows the court to act as a reviewer of the decision-making process and not the decision itself. Therefore, the court has no duty to examine the content of the expert report to see whether the decision was correct and made in pursuance of the opinion of the expert.

[39] Move on into the second consideration, as the respondent avers that the notice of instruction to dispose the scheduled waste to the appointed disposing company ie, Kualiti Alam Sdn Bhd and to do the disposal within the prescribed time is pursuant to the provisions of the law to which it has been empowered to conduct, the applicant on the other hand did not forward any evidence on the mistake done by the respondent or any breach of any particular provisions of the regulations when arriving at the decisions or that there is a non-compliance of the required procedures.

[40] Thirdly, with regards to the allegation on the decisions given without reasons, the court would see that the relevant laws do not require the decision-maker to reason-out on the performance of his duties. This principle could be seen in the industrial matters whereby the courts have decided in many cases that in the performance of public duties, the decision-makers like the Ministers for instance are not required to give any reasons when they exercise their discretion under the Act. What more if the statutes do not provide such discretion, all that the decision-maker does is just complying with the required procedures; hence his action should not warrant reasons to be provided. Significantly, the statutes do not provide him with the duty to give reasons. If there is no duty to provide reasons, it means there is none being breached under the law as has been held in *Nordin Hj Zakaria (Timbalan Ketua Polis Kelantan) & Anor v. Mohd Noor Abdullah* [2004] 2 CLJ 777 at p. 784.

[41] In the light of the above reasons, it is not necessary for this court to consider the damages suffered because it is not relevant to this application when the findings are such that there is no mistake by the respondent, that the decisions were rational and in accordance with the law.

[42] Therefore, this application for judicial review should be dismissed with costs of RM3,000.